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### **REMARKS**

This response is in response to the non-final Office Action mailed February 9, 2006. Claims 1-21 are pending of which claims 1 and 3-21 are rejected. By this response, Claims 1 and 21 have been amended.

In view of the foregoing amendments and the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant response.

#### **Status of claim 2**

Claim 2 was canceled in the response that accompanied the RCE of November 14, 2005. The examiner incorrectly stated the status of claim 2 in the Office Action of February 9, 2006 as bring withdrawn from consideration. Applicants respectfully request that the Examiner correct the status of claim 2.

#### **Amendments to the Claims**

By this response, Claims 1 and 21 have been amended. The amendments to the claims are fully supported by the Specification, Drawings and Claims as originally filed. For example, page 7, lines 14-21 and page 13, line 15-22.

Thus, no new matter has been added, and the Examiner is respectfully requested to enter the amendments.

#### **35 U.S.C. §103(a) Rejection of Claims 1, 3-5, and 9-21**

The Examiner has rejected claims 1, 3-5, and 9-21 under 35 U.S.C. §103(a) as being unpatentable over Fries (US 6317885, hereinafter Fries) in view of Reynolds et al. (US 6799327, hereinafter Reynolds). Applicants respectfully traverse the rejection.

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To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. However, the Fries and Reynolds references, alone or in combination, fail to teach or suggest all of the limitations recited in claim 1, and thus fail to teach or suggest Applicants' invention as a whole.

Specifically, the Fries reference fails to disclose at least "wherein the software programs at the set top terminal interpret the data structure to provide the link and determine electronic program guide controls that is presented and used in conjunction with the broadcast advertisement, wherein the data structure is formatted in combination with the broadcast advertisement for broadcast to the set top terminal."

The Fries reference discloses an "interactive entertainment and information system using a television set-top box, wherein pages of information are periodically provided to the set-top box for user interaction therewith" (abstract). The Fries reference is completely silent on software programs at the set top terminal that interpret the data structure such as the metadata in order to provide the link in the EPG. Moreover, Fries does not teach or suggest any software programs in the set top terminal that determine EPG controls and present and use the controls with the broadcast advertisement. In one embodiment of the present invention, a check is performed, and an associated graphical control presents the option of a force tune, which causes the channel EPG action parameter to be passed to the presentation software to force tune the channel when selected. A message may be presented to the user indicating that a "last" control maybe activated to return to the previous channel after the new channel is tuned. Finally, Fries does not teach or suggest that the data structure is formatted with the broadcast advertisement. In one embodiment of the present invention, the data structure or metadata is transmitted in a "private data" stream with the broadcast. In another embodiment, the data structure or metadata is broadcast in the vertical blinking interval (VBI) lines of the video signal.

Therefore, the Fries reference fails to disclose each and every element of the claimed invention, as arranged in claim 1.

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Reynolds fails to bridge the substantial gap between Fries and Applicants' invention. Reynolds discloses program guide with selectable advertisement and pseudo ads. Specifically, Reynolds teaches:

Television program guides are equipped with advertisements and "pseudo-ads." Pseudo-ads generally include non-advertising subject matter such as games, weather information, celebrity interviews, etc. Pseudo-ads are mixed in with regular advertisements as they are displayed. In one embodiment of the invention, viewers may customize the display of advertising information using buttons on a remote control or set-top box to display desired regular advertisements or pseudo-ads. Both regular and pseudo-ads may be selected to obtain additional information or to initiate associated actions. These and other aspects of the invention help to maintain the viewer's interest in the program guide, and allow more advertisements to be viewed. (abstract).

Nowhere in Reynolds is there any teaching or suggestion of Applicants' claimed "wherein the software programs at the set top terminal interpret the data structure to provide the link and determine electronic program guide controls that is presented and used in conjunction with the broadcast advertisement, wherein the data structure is formatted in combination with the broadcast advertisement for broadcast to the set top terminal." As stated by the Examiner in the previous Office Action, Reynolds shows the advertisements may contain audio and video. Reynolds does not teach or suggest software programs at the set top terminal that interpret the data structure such as the metadata in order to provide the link in the EPG. Moreover, Fries does not teach or suggest any software programs in the set top terminal that determine EPG controls and present and use the controls with the broadcast advertisement. In one embodiment of the present invention, a check is performed, and an associated graphical control presents the option of a force tune, which causes the channel EPG action parameter to be passed to the presentation software to force tune the channel when selected. A message may be presented to the user indicating that a "last" control maybe activated to return to the previous channel after the new channel is tuned. Finally, Fries does not teach or suggest that the data structure is formatted with the broadcast advertisement. In one embodiment of the present invention, the data structure or metadata is transmitted in a "private data" stream with the broadcast. In another embodiment, the

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data structure or metadata is broadcast in the vertical blinking interval (VBI) lines of the video signal.

As such, Applicants submit that independent claim 1 is non-obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Moreover, claim 21 contains substantially similar relevant limitations as those discussed above in regards to claim 1, and thus is also patentable under 35 U.S.C. §103. Furthermore, claims 3-5 and 9-20 depend, either directly or indirectly, from independent claim 1 and recite additional limitations thereof. As such and at least for the same reasons as discussed above, Applicants submit that these dependent claims are also non-obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

Therefore, Applicants respectfully request that the Examiner's rejection of claims 1, 3-5, and 9-21 be withdrawn.

#### **35 U.S.C. §103(a) Rejection of Claims 6-8**

The Examiner has rejected claims 6-8 under 35 U.S.C. §103(a) as being unpatentable over Fries in view of Reynolds and further in view of Lawler et al. (US 5805763, hereinafter Lawler). Applicants respectfully traverse the rejection.

Claims 6-8 depend indirectly from independent claim 1 and recite additional limitations thereof. Moreover, for at least the reasons discussed above, the Fries and Reynolds references fail to teach or suggest Applicants' invention as recited in claim 1. Accordingly, any attempted combination of the Fries and Reynolds references with Lawler, in a rejection against the dependent claims, would still result in a gap in the combined teachings in regards to the independent claims because Lawler does not teach or suggest the missing limitations. As such, Applicant submits that dependent claims 6-8 are non-obvious and are patentable under 35 U.S.C. §103.

Therefore, Applicants respectfully request that the Examiner's rejection of claims 6-8 be withdrawn.

#### **SECONDARY REFERENCES**

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicants' disclosure than the

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primary references cited in the Office Action. Therefore, Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

### CONCLUSION

Thus, Applicants submit that none of the claims presently in the application are obvious under the provisions of 35 U.S.C. §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Jasper Kwoh or Eamon J. Wall, at (732) 530-9404, so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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E J Wall  
Eamon J. Wall  
Registration No. 39,414  
Attorney for Applicants

PATTERSON & SHERIDAN, LLP  
595 Shrewsbury Avenue, Suite 100  
Shrewsbury, New Jersey 07702  
Telephone: 732-530-9404  
Facsimile: 732-530-9808